Executive Summary
Direct Investigation Report

Government's Arrangements for Recovery, Refurbishment and Reallocation of Public Rental Housing Flats

Introduction

Public rental housing ("PRH") is precious social resources, the demand for which has always been very keen. The current-term Government has been making every effort to increase PRH supply to meet people's housing needs, and its efforts are delivering tangible results. The average waiting time for PRH has reduced from 6.1 years before the current-term Government to 5.3 years as at the end of December 2024. Public housing resources should be optimised and properly allocated to those with genuine needs. On the part of PRH tenants, they are obliged to comply with the tenancy terms and should not leave their flat idle or sublet it to others.

2. Apart from increasing the supply of PRH by building more public housing estates, the Government has continued to recover flats and refurbish them for reallocation to PRH applicants. In the past five years[1], the Housing Department ("HD") and the Hong Kong Housing Society ("HKHS") had recovered 15,700 and 1,100 PRH flats respectively on average each year. Upon recovering PRH flats, HD and HKHS will promptly refurbish the flats and arrange for reallocation so as to shorten the waiting time for PRH.

Our Findings

3. We notice that since the current-term Government has stepped up its efforts to combat abuse of PRH, and more PRH tenants have surrendered their flats after purchasing subsidised sale flats, HD has adopted enhancement measures to accelerate reallocation of recovered PRH flats after refurbishment. Among others, HD has set up a mechanism to provide contractors with information about the housing estates where there will be vacant flats in advance, so that the contractors can make prior arrangements for the materials and manpower required for refurbishment works. HD also implemented the revised Vacant Flat Refurbishment Allowance Scheme in November

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[1] HD uses a financial year while HKHS uses a calendar year in compilation of statistics.

2024 to extend the coverage of the scheme to all vacant units regardless of the age of the flat. Tenants who choose to join the scheme can complete the in-take formalities in advance.

4. The Ombudsman initiated this direct investigation operation to examine in detail relevant work of HD and HKHS including the specific procedures for refurbishing recovered PRH flats for reallocation, the workflow of recovering PRH flats, and the disposal of items left in PRH flats by previous tenants. Based on our findings, we have the following comments and recommendations.

Procedures for Recovering Flats of Deceased Singleton Tenants Should Be Improved

5. According to the current procedures, HD and HKHS will attempt to contact the relatives of singleton PRH tenants after their death to seek the relatives' assistance in clearing and vacating the flat before it is surrendered. In case no relative is available to do so, HD and HKHS will recover the flat by issuing a Notice-to-Quit ("NTQ"). Our investigation reveals that there is no mention in the prevailing guidelines of HD and HKHS of any time frames for surrender of the flat by relatives, or the procedures for following up on cases where the relatives cannot be reached.

6. There is a case where a singleton tenant of an HD housing estate passed away, and the respective estate office allowed her daughter to clear the tenant's belongings in the flat concerned. Nevertheless, the estate office had neither given the tenant's daughter a deadline for surrender of the flat nor explained what actions HD would take after the deadline (including that the items left in the flat might be discarded). The daughter mistakenly believed that she could keep the flat until she voluntarily surrendered it. As the office could not reach her despite a number of calls made, the office recovered the flat. By the time she learned that the flat was recovered, the estate office had already disposed of the items left inside.

7. In our opinion, it is reasonable that the estate office allows time for relatives of tenants to clear the tenants' belongings. Nevertheless, HD should revise its guidelines to set reasonable time frames for the relatives of singleton tenants and explain the follow-up actions to be taken after the prescribed deadline. This could allow the relatives to clear the items left in the flats while ensuring that the flats concerned will not be idled for too long in case HD cannot reach the relatives. HKHS should make reference to HD's procedures for recovering the flats of singleton tenants after their death and review its handling procedures and improve the relevant guidelines.

HKHS Should Review Procedures for Disposing of Items Left by Previous Tenants

8. According to the current procedures, HKHS staff and the bailiff officer will enter a flat recovered by way of legal proceeding for checking and counting the items left inside. Afterwards, a notice will be posted outside the flat notifying related parties that they can claim the items found in the flat within 7 days from the posting of the notice. For PRH tenants moving out after being issued an NTQ, if they only return the keys to the estate office but fail to clear their flat, HKHS staff will also check and count the items left in their flat and post a notice to inform the previous tenant or other related parties that they can go to the estate office to claim those items within 14 days. During the aforementioned 7-day and 14-day periods, HKHS will not move those items to the estate office or other places but leaving them in the flat concerned. HKHS explained that such arrangement is based on the consideration that there might be property or belonging of others inside the flat.

9. In our opinion, there is room for improvement in such arrangements. Under the aforesaid circumstances, HKHS recovers possession of the flat by going through relevant legal proceeding. Based on the terms of the tenancy agreement between HKHS and the tenant, HKHS has no obligation to keep the items left in the flat given that such items are deemed as discarded after HKHS has recovered possession of the flat. Hence, such arrangements may hinder the progress of HKHS' refurbishment and reallocation of recovered flats.

10. In this regard, HKHS should make a comprehensive review of the current procedures for handling items left by tenants and seek legal advice where necessary. After the review, if HKHS still sees the need to temporarily keep the items found in the recovered flat, it should consider moving them to other places to avoid affecting the turnover of flats.

HKHS Should be Proactive and Decisive in Handling Cases Involving Tenants' Failure to Surrender Their Flat

11. There is a case where a tenant of an HKHS housing estate assigned a representative in March 2021 to take over the keys of a subsidised sale flat he purchased. The tenant alleged that he could not surrender the original flat by the end of two calendar months from taking over of the keys (i.e. on or before 31 May 2021) as required because he was locked down in a place outside Hong Kong during the outbreak of COVID-19. However, it was not until November 2021, which was six months later, that HKHS

recovered the flat concerned. During the period, HKHS and the tenant's son had maintained communication as regards the handling of items in the flat. In our view, such passive handling amounts to conniving at the tenant's behaviour. On the premise that public resources should be optimised, HKHS should specify a time frame for surrender of flats and recover the flats in a decisive manner by taking prompt recovery action against those who fail to surrender their flat on time or provide the justification for their failure to do so.

HD Should Explore Feasibility of Expediting Recovery of PRH Flats after Issuing NTQs

12. According to the current procedures, HD will issue a Notice to Occupier and an Eviction Notice to the tenant or occupier of a PRH flat whose tenant fails to surrender the flat by the prescribed deadline in the NTQ issued by HD. The notices serve the purpose of giving the tenant or occupier 7-day and 21-day notice to vacate and surrender the flat. If the tenant or occupier still fails to surrender the flat upon expiry of the aforesaid 30 days' notice in total, HD will take action to recover the flat.

13. There is a case where a tenant who breached the tenancy terms due to failure to continuously residing at the PRH flat concerned. In August 2022, HD issued an NTQ to terminate the tenancy of the flat. During its investigation, HD also found that the tenant had leased out the flat. The tenant appealed against the NTQ. In November 2022, the Appeal Panel (Housing) rejected the appeal. HD then resumed the recovery action and issued two Notices to demand surrender of the flat by the occupier on or before 28 December 2022. There were some signs showing that the tenant continued to breach the tenancy terms and lease out the flat to make profit before the deadline of HD's recovery of the flat subsequent to the issuance of NTQ.

14. We consider that HD should be flexible and effective in handling cases, taking into consideration the actual situation of each case (especially in cases involving continuous abuse of public housing). For example, HD does not have to complete the procedures for issuing above-mentioned notices before recovering the flat concerned, or the Department can set the deadline according to the actual situation. HD should explore how the procedures for handling cases involving tenants' failure to surrender their flat upon expiry of the deadline prescribed in the NTQ can be improved. It should also maintain close communication with members of the Appeal Panel (Housing) and give due consideration to various proposals for improvement to facilitate the smooth decision making process of the Appeal Tribunal.

HKHS Should Review Requirement of Issuance of Refurbishment Works Order within 14 Days after Recovering a Flat and Create a Monitoring Mechanism

15. After a tenant moves out, HD will inspect the PRH flat and issue a refurbishment works order to the contractor within 3 days. Previously, HKHS had not set any requirement as to when a works order should be issued. After the launch of our direct investigation operation in early 2024, HKHS set the requirement of issuing the order within 14 days after recovering a flat, which is the general practice of estate offices of various housing estates in these few years to inspect a flat within 14 days after its recovery.

16. In our opinion, HKHS' existing requirement of issuing such order within 14 days might raise doubts among members of the public as to whether it is reasonable. Such practice of HKHS is also contrary to the reasonable expectation of PRH applicants that the Government would enhance the speed and effectiveness to accelerate the turnover of PRH flats. HKHS should carefully review the existing arrangements and make revision as appropriate to enhance efficiency. Besides, it should create a monitoring mechanism to ensure that its staff will adhere to the requirements in performing their duties.

HD and HKHS Should Explore Setting of Target for Reallocation Arrangement after Recovery of PRH Flats Where Feasible

17. While the refurbishment works are in progress, HD and HKHS will start in parallel the arrangements for reallocating the vacant flats to eligible PRH applicants. Nevertheless, the authorities do not have any internal guidelines or indicators in place to provide a time frame for reallocation of recovered flats. Moreover, HD's computer system does not include a function or an option for checking the time required for reallocation of PRH flats after their recovery, or a monitoring function for the same purpose.

18. We believe that PRH applicants could have more time preparing for the in-take if HD and HKHS could arrange reallocation of recovered flats as soon as practicable. In case the prospective tenant does not accept the offer of a recovered flat, the authorities may proceed with the next eligible applicant on the waiting list. We recommend that HD and HKHS explore setting of target for reallocation arrangement after recovery of PRH flats where feasible, and enhance the computer system to add functions of data

collection, statistics compilation and analysis so as to improve the efficiency of daily management.

HKHS Should Explore Feasibility of Shortening Refurbishment Period of Recovered Flats

19. At present, the key performance indicators of HD and HKHS for refurbishing a vacant PRH flat are 44 days and 60 days respectively. We have noticed that in recent years, 92% of HKHS' refurbishment works (involving 1,923 units) completed within 60 days. The number of PRH flats whose refurbishment works completed in 61 days to 90 days reduced from 89 in 2022 to 27 in 2024. We consider that HKHS should target at excellence and make a comprehensive review of the workflow and standards of refurbishment works of vacant PRH flats so as to speed up work progress and shorten the refurbishment period.

20. Furthermore, HKHS should consider introducing a scheme similar to HD's Vacant Flat Refurbishment Allowance Scheme to simplify the process for refurbishment works, hence optimal utilisation of HKHS' resources and minimal wastage.

Other Business Relating to Recovery of PRH Flats and Areas for Improvement

HKHS Should Consider Following HD's Example in Issuing a Letter of Assurance to Tenants Who Surrender Their Flat Due to Admission to Residential Care Homes or Imprisonment

21. Unlike HD's arrangements, HKHS only offers a Letter of Assurance to elderly tenants who surrender their flat after joining the Portable Comprehensive Social Security Assistance Scheme for Elderly Persons Retiring to Guangdong and Fujian Province, the Guangdong Scheme and the Fujian Scheme to offer accommodation in PRH for those elderly tenants if they return to Hong Kong in future provided that they can satisfy the prevailing eligibility criteria for PRH applications. Such arrangements are not applicable to tenants who move out for admission to residential care homes or because of imprisonment.

22. Elderly tenants may hesitate over admission to a residential care home due to worries about adaptability. If the Government makes available accommodation in PRH for them in future, it will address their concern and encourage them to receive proper care in residential care homes. On the other hand, public housing resources will be

better utilised and PRH flats so vacated can be reallocated to other families with housing needs. For tenants departing from PRH due to imprisonment, offering them assurance of public housing can help them reintegrate into society after their release from the prison.

23. We consider that HKHS should actively consider extending the coverage of issuance of Letters of Assurance to include tenants admitting to a residential care home or serving a sentence.

<u>HKHS Should Re-examine Arrangements for Tenants' Surrender of Their PRH Flat After Acquiring Other Forms of Subsidised Housing</u>

24. For tenants having acquired other forms of subsidised housing under the Hong Kong Housing Authority and HKHS (such as subsidised sale flats and transfer), they are required to surrender their original flat within 60 days from a prescribed date. Tenants of HD's housing estates may apply for extended stay, the period of which should not exceed 30 days. During the extended stay, tenants are required to pay an occupation fee. In our opinion, such requirement can prevent abuse of HD's discretion. Relevant requirements of HKHS are, however, different from HD's in that HKHS' tenants may apply for late surrender of their original flat and the maximum extension is 60 days, during which the tenants do not need to pay any additional fee.

25. We find it unreasonable that HKHS' tenants may apply for extended stay of a longer period, which is 30 days more than the extension granted by HD, and the extended stay of 60 days in total does not incur any occupation fee or additional cost. On the basis of fairness and optimisation of public housing resources, HKHS should make reference to HD's practice and adopt the same requirements in handling tenants' applications for extended stay.

<u>It Is Necessary to Improve Communication with Tenants And Require Tenants to Provide Contact Information Other Than Telephone Numbers</u>

26. Our case studies reveal that HD's estate offices were unable to contact the tenants or their relatives for the purpose of recovering the flats and handling items left in the flats in a timely manner despite a number of telephone calls made.

27. For better communication with tenants and their emergency contact persons (for singleton tenants), we consider that HD and HKHS should improve relevant

arrangements by requesting tenants and their emergency contact person to provide an email address as the electronic correspondence so that the authorities can contact them when necessary.

Our Recommendations

28. Overall, The Ombudsman has made 19 recommendations:

Recommendations to HD

(1) improve the procedures for recovering the flats of deceased singleton tenants and revise the relevant guidelines;

(2) strengthen staff training on recovery of flats of deceased singleton tenants to enhance staff's understanding of the revised workflow;

(3) explore how the procedures for handling cases involving tenants' failure to vacate and surrender their flat upon expiry of the deadline prescribed in the NTQ can be improved;

(4) maintain close communication with members of the Appeal Panel (Housing) and give due consideration to various proposals for improvement to facilitate the smooth decision making of the Appeal Tribunal;

(5) explore setting of target for reallocation arrangement after recovery of PRH flats where feasible;

(6) enhance the computer system to add functions of data collection, statistics compilation and analysis so as to improve the efficiency of refurbishment and reallocation of recovered PRH flats; and

(7) improve communication with tenants and their emergency contact persons, requesting that tenants provide an email address to facilitate communication.

Recommendations to HKHS

(8) make reference to HD’s procedures for recovering the flats of deceased singleton tenants and revise the relevant guidelines;

(9) arrange staff training after revising the guidelines on handling the tenancy matters of deceased singleton tenants;

(10) re-examine the procedures for handling items left in PRH flats by previous tenants;

(11) to be more proactive and decisive in handling cases of failure to surrender PRH flats;

(12) explore appropriate revision of relevant arrangements to shorten the time frame for issuance of the refurbishment works order after recovery of a flat to less than 14 days to enhance efficiency, and create a monitoring mechanism;

(13) re-examine the process of reallocation of recovered flats and explore setting of target for reallocation arrangement after recovery of PRH flats where feasible;

(14) improve the computer system for statistical analysis to effectively collate information on refurbishment and reallocation of recovered PRH flats for better efficiency;

(15) review the workflow and standards of refurbishment works of vacant PRH flats so as to speed up work progress and shorten the refurbishment period;

(16) consider introducing a scheme similar to HD’s Vacant Flat Refurbishment Allowance Scheme and study the feasibility;

(17) consider following HD’s example in issuing a Letter of Assurance to offer PRH accommodation to tenants who surrender their flat due to admission to residential care homes or imprisonment when they have housing needs in future;

(18) re-examine the arrangements for tenants' surrender of their PRH flats after acquiring other forms of subsidised housing, and

(19) request that tenants and their emergency contact persons provide an email address to facilitate communication.

Office of The Ombudsman
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